



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

RECENT IMPORTANT DECISIONS.

BANKRUPTCY—JUDGMENT FOR BREACH OF PROMISE, AGGRAVATED BY SEDUCTION, NOT DISCHARGEABLE.—Petitioner had secured a judgment against the bankrupt for the breach of a promise to marry, seduction under such promise having been pleaded in aggravation of damages; the common law rule prevails in New York and a woman may not maintain an action for her own seduction. The District Court (196 Fed. 571), viewing this as a judgment grounded solely in contract, and not in tort as “for willful and malicious injury to the person or property of another,” or for “seduction of an unmarried female,” held that the judgment was discharged and directed that no further action be taken thereon. On appeal this judgment was reversed and the restraining order vacated. —*In re Warth, Petition of Gutfreund*, (2d C. C. A. 1912) 200 Fed. 408.

The Amendment to the Bankruptcy Act, on which the decision is based, providing that liability “for the seduction of an unmarried female” shall not be discharged, does not at first blush seem to afford sufficient reason for refusing to discharge a debt of the character here presented, in a jurisdiction in which the seduction itself may not be made the basis of an action by the aggrieved party. This was the view taken by the District Court and in that opinion it was ably supported by state and federal authority. *In re Macauley*, 101 Fed. 223; *Disler v. Macauley*, 73 N. Y. Supp. 270; *Biela v. Urbanczyk*, 38 Tex. Civ. App. 213, 85 S. W. 451. The action for breach of promise to marry has always been regarded as contractual, and the common law never recognized any right on the part of a woman to sue for her own seduction. The explanation of this rule, which at this day may seem harsh, is found, as the court said, in the theory of the mutual fault and consent. Exceptions to the rule have been sustained in extreme cases, as where the action is by a female ward on attaining her majority, against her guardian for seduction accomplished when she was under the statutory age of consent. *Graham v. Wallace*, 63 N. Y. Supp. 372. These and numerous other authorities would seem to indicate that, in New York at least, a judgment for breach of promise to marry, although seduction is pleaded in aggravation of damages, is a debt such as may be discharged in bankruptcy if the Act be given a strict interpretation. But the Circuit Court of Appeals said, “It has been the policy of the Bankruptcy Act to discharge honest debtors but not to afford a shield to willful wrongdoers,” and it was for this purpose the amendment was made. “The provision is broad and we have no doubt applies and was intended to apply to every case where there is a liability for seduction whether the action to enforce such liability be based, as is permitted by some states, directly on the essential wrong, or by reason of the limitations of the common law, be founded on the incident—the refusal to marry. To say that Congress intended to distinguish between these cases is to say that it

intended to further favor seducers in those jurisdictions where they are already favored by adherence to an artificial form of action which often operates to prevent the enforcement of a morally just demand."

BANKRUPTCY—PAYMENT TO BANK OF PRE-EXISTING DEBT NOT A PREFERENCE.—The bankrupt had borrowed \$2,000.00 from defendant bank, giving notes therefor; when the notes were due a loan was effected elsewhere for \$3,000.00 which amount was deposited in the defendant bank to the credit of the bankrupt. A check to the order of the defendant bank for the amount of the debt, with interest, was then drawn against this deposit. Bankruptcy ensuing within four months, the trustee sues to recover the amount so paid, on the ground that the payment operated as a preference. *Held* that such payment did not amount to a preference and the bank was permitted to retain the money.—*Walsh v. First Nat. Bank of Maysville* (6th C. C. A. 1913), 29 Am. B. R. 118.

In the absence of collusion and fraud a bank of deposit has always been permitted to set-off debts owing it and due from a bankrupt against any deposits it may have of the bankrupt. In *N. Y. County Bank v. Massey*, 192 U. S. 138, such a right was declared to exist, the court saying relative to the nature of a bank deposit, "It is not a transfer of property as a payment, mortgage, gift or security. It is true it creates a debt,—but it does not enlarge the scope of the statute defining preferences so as to prevent set-off recognized within the terms of § 68a." In that case the debts of the bankrupt were due and the entire deposit was set off against the claim of the creditor. The same situation existed in *Irish v. Citizens Trust Co.*, 163 Fed. 880, in which deposits were allowed to be set off against matured claims of a creditor bank but not allowed in case of claims unmatured. In *Lowell v. International Trust Co.*, 158 Fed. 781, deposits were allowed to be set off against demand loans payable to the creditor bank. In *re Geo. M. Hill & Co.*, 130 Fed. 315, allowed set-off of so much of the claims of the creditor bank as equaled the amount of the bankrupt's deposit, but would not allow it against notes given by the bankrupt to third parties and negotiated to the bank. In *re Little*, 110 Fed. 621, which preceded *Bank v. Massey*, *supra*, announced the same rule as was later sustained in that case. The principal case does not announce any new doctrine but it does present in a slightly varying manner the circumstances under which may arise the always interesting question of a bank receiving what is in effect a preference, though declared by the courts not to be. In the principal case the set-off completely extinguished the claim of the creditor bank, leaving it nothing to prove in the bankruptcy proceedings, while the other reported cases involve situations in which the amount of the creditor's claim has exceeded the bankrupt's deposit. The principle is the same in each instance, however, and the decision not only follows the rule of the adjudicated cases but is in conformity with the law.

BILLS AND NOTES—DELIVERY—CONDITIONS.—Defendant delivered his non-negotiable promissory note to a corporation payee on condition that latter would obtain a hundred secured notes of like amount. The note and chat-